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LOK SABHA

The following Report of the Joint Committee on the Bill to further amend the Indian Electricity Act, 1910 was presented to Lok Sabha on the 9th February, 1959:—

Composition of the Joint Committee

Lok Sabha

Sardar Hukam Singh—Chairman

MEMBERS

2. Shri Pendekanti Venkatasubbaiah
3. Shri Vinayak Rao K. Koratkar
4. Shri Maneklal Maganlal Gandhi
5. Shri Chandramani Lal Choudhry
6. Shri Shree Narayan Das
7. Shri Shivram Rango Rane
8. Shri Ramappa Balappa Bidari
9. Shri K. R. Sambandam
10. Shri M. Ayyakkannu
11. Shri N. K. Pangarkar
12. Sardar Amar Singh Saigal
13. Shri M. G. Uikey
14. Shri Abdul Latif
15. Shri Pulin Behari Banerji
16. Shri Bhagwan Din Misra

17. Shri Ram Shanker Lal
18. Shrimati Krishna Mehta
19. Shri S. Hansda
20. Shri Diwan Chand Sharma
21. Shri G. D. Soman
22. Shri K. T. K. Tangamani
23. Shri P. K. Vasudevan Nair
24. Shri Shraddhakar Supakar
25. Shri Ignace Beck
26. Shri Purushottamdas R. Patel
27. Shri Baishnab Charan Mullick
28. Shri Premji R. Assar
29. Shri Braj Raj Singh
30. Shri Jaisukhlal Lalshanker Hathi

Rajya Sabha

31. Shrimati Pushpalata Das
32. Captain Awadhesh Pratap Singh
33. Shri J. C. Chatterjee
34. Shri G. R. Kulkarni
35. Sardar Darshan Singh Pheruman
36. Shri Braj Bihari Sharma
37. Shri N. M. Lingam
38. Shri Bibudhendra Misra
39. Shri B. C. Nanjundaiya
40. Shri Rama Bahadur Sinha
41. Shri K. L. Narasimham
42. Shri Devendra Prasad Singh
43. Shri Jaswant Singh
44. Shri A. N. Khosla
45. Hafiz Mohammad Ibrahim.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the *Bill further to amend the Indian Electricity Act, 1910 was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 27th September, 1958. The motion for reference of the Bill to a Joint Committee of the Houses was moved by the Deputy Minister of Irrigation and Power, Shri Jaisukhlal Lalshanker Hathi, on the 19th November, 1958 and was discussed in the Lok Sabha on the 19th, 20th and 21st November, 1958 and was adopted on the 21st November, 1958.

3. The Rajya Sabha discussed the motion on the 2nd, 3rd and 4th December, 1958 and concurred in the said motion on the 4th December, 1958.

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 5th December, 1958.

5. The Committee held six sittings in all.

6. The first sitting of the Committee was held on the 15th December, 1958 to draw up a programme of work.

7. At the second sitting held on the 21st January, 1959, the Committee heard the evidence tendered by the Federation of Electricity Undertakings of India, Bombay.

The Committee have decided to lay the evidence tendered before them on the Table of the House *in extenso*.

8. The Committee considered the Bill clause by clause at their sittings held on the 22nd, 23rd and 24th January, 1959.

9. Three memoranda/representations on the Bill were received by the Committee from different associations/individuals.

10. The Committee considered and adopted the Report on the 8th February, 1959.

*Published in Part II, Section 2 of the Gazette of India Extraordinary, dated the 27th September, 1958.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause 3.*—The amendments made in this clause seek to make certain drafting changes in the definition of "energy" in the principal Act.

13. *Clause 4.*—The changes made in this clause are of a drafting nature.

14. *Clause 6.*—The Committee feel that if a State Government desires to make any alteration or amendment in the terms and conditions of a license other than on an application of the licensee, the State Government should publish the proposed alteration or amendment in the prescribed manner and consider all objections received by it within a specified period, as is the procedure laid down in the case of alterations or amendments applied for by the licensee.

The clause has been amended accordingly.

15. *Clause 7.*—The Committee feel that where the State Government revokes a license under section 4(1) other than clause (c) thereof, of the principal Act, and the State Electricity Board or the local authority concerned is not willing to purchase the undertaking, it should not be obligatory upon the State Government to sell the undertaking to any other person willing to purchase it but the State Government should be free to decide whether to sell the undertaking to such person or not. The other amendments made in this clause are of a consequential or of formal nature.

The clause has been amended accordingly.

16. *Clause 11.*—The Committee feel that for the purposes of section 12 of the principal Act, occupier of a building or land should not include a person who is not in lawful occupation thereof. The clause has been amended accordingly.

17. *Clause 12.*—The amendments made in this clause are of a drafting nature.

18. *Clauses 13 and 14.*—The amendments made in these clauses are of a minor nature.

19. *Clause 15.*—The Committee feel that the State Government should not have any power to direct a licensee to supply energy, in preference to any other consumer, to any establishment merely on

the ground that it is a Government establishment. This power may be exercised only in relation to an establishment used or intended to be used for maintaining supplies and services essential to the community. The clause has been amended accordingly.

20. *Clause 18.*—The amendments made in this clause are of a consequential nature.

21. *Clause 27.*—The Committee feel that each State Electricity Board should nominate a member to the Central Electricity Board. The Committee have also increased the number to be nominated on the Board by the Central Government from four to five. The clause has been amended accordingly.

22. *Clause 30 (New clause).*—The Committee consider that all rules made under section 37 of the principal Act should be laid before both Houses of Parliament for a period not less than thirty days and shall be subject to such modifications as Parliament may make. The new clause makes the necessary provision.

23. *Clause 40 (Original clause 39).*—The Committee feel that it should be specifically provided in clause I of the Schedule to the Principal Act that where the works are not completed by the licensee within the stipulated period the State Government will have the option to forfeit any part or whole of the deposit money.

The Committee also feel that the minimum number of persons entitled to require the licensee to extend his mains to the locality where such persons reside, under clause VII of the Schedule to the principal Act should be reduced to one. The other amendments made in this clause are of a consequential nature. The clause has been amended accordingly.

24. *Clause 41 (New clause).*—This clause seeks to make certain consequential amendments in the Electricity (Supply) Act, 1948.

25. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 9th February, 1950.

HUKAM SINGH,
Chairman,
Joint Committee

Minutes of Dissent

I

The Indian Electricity (Amendment) Bill as it now has emerged from the Joint Committee has made certain amendments to the Bill. We are constrained to observe that the amendments accepted do not conform to the statement of objects and reasons for introducing the Bill. The main objects of the Bill are (a) to enlarge the scope and facilities available to consumers of electricity, (b) to extend the same facilities to consumers served by Government Electricity Department or enjoyed by the consumers of private licencees and State Electricity Board, (c) to exercise strict control over the licencees, (d) to take powers to regulate the distribution, supply, the consumption and use of energy in certain circumstances and (e) to provide for the inspection of electrical works and installations of the Central Government.

We shall briefly examine how far these objects have been served by the Bill after consideration by the Joint Committee. We have to state that we were not able to carry the majority of members of the Committee in pressing forward our amendments or rejecting the amendments moved by the Government.

The only salutary amendment which has been accepted by the Committee is the forfeiture clause in the licence when the licensee fails to carry out the terms of his agreement.

Regarding the consumers we wanted the specific provision in the licence fixing the price rates. That was not accepted. In addition to this in the Central Electricity Board there is no representation to the consumers' interest.

We do not see how the control over the licensee is made more stringent by the amending Bill. In cases where the distributing mains had to be laid at the instance of some requisitionists and in case where the supply of energy is to be made to occupiers in the vicinity and also in case of supply of energy to the consumers it is now provided in the Act that the licensee will be assured at the current rates charged by him an annual revenue not exceeding 15 percentum of the cost of services for a period of two years. This we consider as a special favour conferred upon the licensee.

The objects provide for powers to regulate the distribution and supply in certain circumstances. Section 22(A) of the Act provided that the State Government may if in its opinion it is necessary

in the public interest so to do, direct any licensee to supply in preference to any other consumer energy required by any establishment belonging to or under the control of the Central Government or the State Government. The Joint Committee has deleted this provision, thereby taking away the priority which was originally conferred upon the public sector.

Although in both the Houses the Members advocated gradual nationalisation of Electricity Supply specific provision authorising the State Governments to acquire the electricity undertaking as it was done in the case of Madras State has not been provided for in the Bill as amended.

The purchase price which is offered under Section 7(A) of the Act is exorbitant. The price includes market value of the undertaking subject to reference to arbitration in case of dispute. It would have been better if the compensation amount was fixed at either the market value or the depreciated book value whichever is less. In addition to the market value the Act gives a solatium not exceeding twenty percentum of the market value. This, we consider as throwing away the public money to the owner of an undertaking who has already made enormous profits.

The interest of the employees other than managerial staff has also not been protected in case of transfer. It would have been better if the length of services of the employees were reckoned if the undertaking were taken over by the State Government. Besides, there is no representation to the labour on the Electricity Board.

There are only a few minor points to which we will make a reference before concluding. The present Electricity Board has practically no powers and it is not comparable to the State Electricity Board. This Board has got only rule making powers. We hope that the powers of this Board will be enlarged. At present as amended on a requisition signed by two or more owners or occupiers of the premises in the area of the supply after expiration of two-and-a-half years from the commencement of the licence the licensee will lay down further distributing mains. This is provided in Clause (5) to the schedule of the original Act, i.e. Clause 39 of the amending Bill. We suggest that the same result should follow on requisition by one person. The proviso to Sec. 4A(1) should go as it gives veto power to licensee while making alterations in license.

NEW DELHI;
The 8th February, 1959.

*P. K. VASUDEVAN NAIR
*K. L. NARASIMHAM
K. T. K. TANGAMANI

*Certificate required under Direction 87 of the 'Directions by the Speaker under the Rules of Procedure of Lok Sabha' has not been furnished.

I regret my inability in concurring with the report of the Select Committee on the Indian Electricity (Amendment) Bill, 1958 and hence I add a minute of dissent.

For a rapid development of the country, it is essential to stimulate a hunger for power among the masses and legislation by the Centre and the States can do much in stimulating this hunger. Where the masses (the consumers, actual and potential) are not sufficiently conscious of the manifold benefits of electricity, the Government should help them in every possible way to get this consciousness. The giant industries and the big cities have their own demands of more and more electricity. But the needs of the cottage industries, the small towns and villages, and the agriculturists have to be met and more needs for them created. Our Second Five Year Plan pleading for the rural consumers says—

“There is justification for adjusting tariffs for urban and industrial consumers with a view to carrying out this policy. For rural electrification schemes it may not always be possible to apply the usual yardstick for financial return. In special cases, where electricity would provide large benefits to the community the State Governments, subject to their finances permitting may even sponsor schemes which are not expected to be self-supporting within the usual period of 10 years.” (Second Five Year Plan Page 340).

A study of the Electricity Acts of 1910 and of 1948 and the present bill has convinced me that in the matter of development of electricity there is little to enthuse the consumers, actual and potential, little to enthuse the agriculturists, the small men in the villages, in the suburbs of small towns and men interested in the cottage industry. The State Government through the electricity board, consisting mostly of technical persons provide adequate protection to the interest of the licensees but are not half as solicitous of the interest of the consumers. Their interests are ignored.

I am not surprised therefore that some States have not yet set up their electricity boards even eleven years after the passing of the Electricity Supply Act. I was not surprised when the amendments tabled by some members to extend some concession to agriculturists and small industries regarding rates and facilities for electric connections were not accepted by the Committee. Living under the shade of the gorgeously illuminated Hirakud Dam, I know how the Municipal Authorities and the citizens of Sambalpur town had to go on “light off” strike, in spite of the 1948 Act, because

the State Government either would not listen to their legitimate grievances against the licensee or could not help the public. The Secretary of the Federation of Electricity Undertakings, who appeared as a witness before us referred to the case of a desparate municipality which stopped taking electricity and restored kerosene lighting, though the Secretary put the blame on the municipality. Proper legislative amendment may solve many such pathological problems, if the Government give due importance to the needs of the Common man.

I am not oblivious of the provision regarding the State Electricity Councils and the Local Advisory Committees, but I doubt their adequacy or effectiveness in the set up of the 1948 Act. After the passing of the Electricity (Supply) Act in 1948, draft rules were framed by the Central Government in 1954, apparently for adoption by the State Governments, whose responsibility it was to prescribe rules for the conduct and composition of the Electricity Council. But even these draft rules do not prescribe any rule under section 16 or section 78 of the Electricity (Supply) Act, 1948. Therefore I wonder in how many States these councils have been functioning with adequate rules and regulations, and I doubt if the Union Territories have their Electricity Councils and Local Advisory Committees.

This point needs emphasis not only for the reason that the State Electricity Council is the only body where the common man has some chance of having his say but also on account of the fact that certain amendments proposed by the Government in the Bill, appeared to me to be retrograde and I tried unsuccessfully to oppose the same. The amendments relate to deleting the clauses about maximum unit rate of electricity to be charged by the licensee to the consumer.

Section 3 of the Indian Electricity Act, 1910 provided in clause (d) that—

a licence under this Part

(1) *may* prescribe such terms.....

as to the limits of price to be charged in respect of the supply of energy.....

And clause XI of the Schedule to that Act provided among other things that—

“the prices charged by the licensee for energy supplied by him shall not exceed the maxima fixed by his licence....etc.

Then came the 1948 Electricity (Supply) Act, which in Section 57(i) read with the Sixth Schedule and the table appended to the Seventh Schedule provided for a complicated formula for fixing the rate to be charged to the consumer. It is difficult for the lay man, who has not studied higher mathematics (pure and applied) and who has no access to the licensee's accounts to judge what should be the reasonable rate. The State Government may be indifferent or may not have the time to look meticulously to the returns to see whether the rates are just. No doubt, Section 57 provides for the setting up of rating committee. But here again whereas the licensee has the right to request the State Government to set up a rating committee to determine fair charge, the consumer has no similar right. Even in the rating committee a licensee's association may be represented, but not a Consumer's representative apparently because the interest of the consumer is best represented by the State Electricity Board.

The law of ascertaining the correct rate per unit with the help of the formulae enunciated in the Sixth and Seventh schedules of 1948 Act is not necessarily inconsistent with the law fixing a maximum and minimum charge, as provided in the 1910 Electricity Act. The two Acts have existed side by side without any objection of repugnancy of the one provision to the other. Section 57 of the 1948 Act provides an additional safeguard by saying that the formulae of the Sixth and Seventh schedules of that Act will prevail over any provision in the earlier act to the contrary. Whereas the 1948 Act formulae are complicated, the ceiling of rate provided in 1910 Act provides a ready reference to the average consumer about the rate and prevent chances of undue profiteering inasmuch as a copy of the licence is readily available to the consumer.

But there is more a fundamental reason why a ceiling to the rate of electricity should be provided in the license notwithstanding the formulae in Schedules 6th and 7th of the 1948 Electricity Act. If we want to develop electricity, we cannot ensure reasonable profit from the very beginning. Tea and Coffee were distributed free in the beginning to make people addicted to them. We do not want people, the village industry man, the agriculturists to be addicted to electricity. Can we make even a beginning in the development of electricity if we say that a distributing licensee, who gets electricity from our big hydro-electric project at a nominal bulk rate can not supply electricity to the community pumping set or the small-scale industry below say Rs. 2/- per unit according to the calculation suggested by schedules 6th and 7th of the 1948 Act? Not only may the licensee be given a reasonable return (from the

immediate investment) but also the consumer must be ensured that electricity is not a luxury only for the white-collared man or the industrialists but is also available to him at a reasonable rate not beyond his means. In proposing to delete the clauses on ceiling, the Government completely lost sight of this aspect of legislation.

For the above reason I propose the deletion of clause 4(ii) (b) (i) in page 3 lines 15 to 18 and the deletion of sub-clause (j) of clause 39.

So far as development of electricity and expansion of service is concerned, must we ensure the licensee reasonable profit for each line of extension small or big or should it be sufficient, if we ensure the licensee an overall reasonable return? If we insist on the first alternative, it may hamper development. Those members of the Select Committee who prefer the second alternative, to my mind, tabled amendment to sub-clause (d) of clause 39 of the Bill. Schedule V of the original Act provided that if six or more persons in a locality apply for distributing mains under certain conditions, the licensee shall provide distributing mains, within the area of supply. The present bill sought to change the words "six or more" to "two or more". The question was; since a certain guarantee of supply and use was needed from the applicants, whether the phrase "two or more" could not be amended to "one or more". As against this, it was argued that for one consumer a service line was enough and no distributing main was needed, and that to insist on a distributing main for one man may result in loss to the licensee. It is difficult to see the logic of difference between "two or more" and "one or more" in this context. If a distributing main is laid even at the request of one man it is sure to serve as a nucleus for further expansion since it is within the area of supply and though it may not yield immediate profit, it is a nucleus for development and is sure to earn more business and profit to the licensee in the long run.

Whatever shape this Bill may take in Parliament, it is time that the Government and the licensees have a change in their outlook in order to be a little more accommodating to the needs of the ordinary consumer.

SHRADDHAKAR SUPAKAR.

NEW DELHI;

The 8th February, 1959.

III

The Indian Electricity (Amendment) Bill as it now has now emerged from the Joint Committee has made certain amendments to the Bill. I am constrained to observe that the amendments accepted do not conform to the statement of objects and reasons for introducing the Bill. The main objects of the Bill are (a) to enlarge the scope and facilities available to consumers of electricity, (b) to extend the same facilities to consumers served by Government Electricity Department or enjoyed by the consumers of private licensees and State Electricity Boards, (c) to exercise strict control over the licensees, (d) to take powers to regulate the distribution, supply, the consumption and use of energy in certain circumstances and (e) to provide for the inspection of electrical works and installations of the Central Government.

I shall briefly examine how far these objects have been served by the Bill after consideration by the Joint Committee. I am sorry to point out that I was not able to carry the majority of members of the Committee in pressing forward certain amendments or rejecting the amendments moved by the Government.

The only salutary amendment which has been accepted by the Committee is the forfeiture clause in the licence when the licensee fails to carry out the terms of his agreement.

Regarding the consumers I wanted the specific provision in the licence fixing the price rates. That was not accepted. In addition to this in the Central Electricity Board there is no representation of the consumers' interest. Their interests are left to be watched and determined by the suppliers.

I do not see how the control over the licensee is made more stringent by the amending Bill. In cases where the distributing mains had to be laid at the instance of some requisitionists and in case where the supply of energy is to be made to occupiers in the vicinity and also in case of supply of energy to the consumers it is now provided in the Act that the licensee will be assured at the current rates charged by him an annual revenue not exceeding 15 percentum of the cost of services for a period of two years. This is a special favour conferred upon the licensee.

The objects provide for powers to regulate the distribution and supply in certain circumstances. Section 22(A) of the Act provided

that the State Government may if in its opinion it is necessary in the public interest so to do, direct any licensee to supply in preference to any other consumer energy required by any establishment belonging to or under the control of the Central Government or the State Government. The Joint Committee has deleted this provision, thereby taking away the priority which was originally conferred upon the public sector. This is another significant victory for the licensee.

Although in both the Houses the Members advocated gradual nationalisation of Electricity Supply specific provision authorising the State Governments to acquire the electricity undertaking as it was done in the case of Madras State has not been provided for in the Bill as amended.

The purchase price which is offered under Section 7(A) of the Act is exorbitant. The price includes market value of the undertaking subject to reference to arbitration in case of dispute. It would have been better if the compensation amount was fixed at either the market value or the depreciated book value whichever is less. In addition to the market value the Act gives a solatium not exceeding twenty percentum of the market value. This, in my opinion is throwing away the public money to the owner of an undertaking who has already made enormous profits.

The interest of the employees other than managerial staff has also not been protected in case of transfer. It would have been better if the length of services of the employees were reckoned if the undertaking were taken over by the State Government. Besides, there is no representation to the labour on the Electricity Board.

There are only a few minor points to which I will make a reference before concluding. The present Electricity Board has practically no powers and it is not comparable to the State Electricity Board. This Board has got only rule making powers. We hope that the powers of this board will be enlarged or in the absence of enlargement of powers, the Board shall be allowed to die its own death. At present as amended on a requisition signed by two or more owners or occupiers of the premises in the area of the supply after expiration of two-and-a-half years from the commencement of the licence the licensee will lay down further distributing mains. This is provided in Clause (5) to the schedule of the original Act, i.e., Clause 39 of the amending Bill. In my opinion the same result should follow on requisition by one person. The proviso to Section 4A(1) should go as it gives veto power to licensee while making alteration in licence.

In the present context of the situation in the country it is essential that provisions are made by which agriculture and small-scale, cottage and village industries are supplied energy at cheaper and concessional rates. I only hope that the Bill will be amended accordingly to insert such a provision.

NEW DELHI;

The 8th February, 1959.

BRAJ RAJ SINGH.

IV

I regret that I cannot fully agree with the majority view.

We want increase of food production and other agricultural produces. We have to import foodgrains costing us yearly more than about Rs. 100 crores. We export ground-nuts, tobacco, raw cotton, oil and oil seeds etc. and thereby we earn foreign exchange and also export duties to our revenue. It is an admitted fact that agriculture is the very basis of our plans, prosperity and future progress. It is also desired that our agricultural production should be doubled. If we do not double our agricultural production within five years, we shall have to face a serious break-down of our national economy. Financing our plans by borrowing or over-borrowing may some day affect our national honour and integrity. It must be the concern of one and all to find ways and means to double our agricultural produce as would not only make our country self-sufficient in foodgrains but we may be able also to export agricultural produce, to earn foreign exchange as would balance our foreign imports.

It is with this view that I am obliged to write this minute of dissent.

Can we not successfully harness electric energy to increase our agricultural production? When we amend the Indian Electricity Act, should we not so amend it as to induce the agriculturists to make maximum use of electric energy for irrigation resulting in more production?

Under Section 3(d) of the Indian Electricity Act, 1910, the Government is authorised to prescribe price-limits; however by the amending Bill, it is proposed to omit that part from this section which empowers the Government to prescribe price-limit. I am of opinion that the present Sec. 3(d) empowering the Government to prescribe price-limit be not disturbed but the following be added—

‘which in case of supply of energy for agriculture and its allied work and also for small scale industry shall not exceed 10 nP. per unit.’

I desire that the Government should have authority to prescribe price-limit of energy used in agriculture and small industry and

the Government should use this authority by prescribing such price-limit for energy as would give impetus to agricultural production and to small industries.

Through private and public sectors, we are extending electric energy to rural areas. There are wells and flowing rivers and tanks. This water may be pumped to irrigate agriculture to increase production. Agriculturists do not utilise this, because of high rates of energy. If price-limit of energy used in agriculture is prescribed, and if that price-limit is appreciably low, agriculturists will be tempted to make maximum use of energy resulting in the increase of production. I propose that the price-limit for these purposes should not exceed 10 naye paise per unit.

For these reasons I propose that Sec. 3(d) of the Indian Electricity Act, 1910 be retained and also that clause 4b(1) of the amending Bill be omitted and the following words after 'the supply of energy' in Sec. 3(d) be added—

"which in case of supply of energy for agriculture and its allied works and also for small scale industries shall not exceed ten naye paise per unit".

Agriculture is very often not a paying proposition. Per capita income of one in agriculture is much less than anybody in the country. I think the per capita gross income of one in agriculture is about Rs. 150/- only per year. So by giving energy at a cheap rate to agriculture, we help the poorest and the most needy section of our population and also thereby help ourselves, if agriculture production is increased.

A question may be asked 'why discriminatory favourable treatment to agriculture?' The answer is that we want to double our agricultural production to save our country from being economically ruined. We want to be self-sufficient in food and we want more cash crops to earn foreign exchange. Do we not give concessions to textile and other industries? So if some concession is given to agriculture, why should it be questioned? The ruling political party—Congress—is determined to put ceiling on lands and thereby on agricultural income without thinking of putting ceilings on other property holdings and incomes. Is it not discriminatory treatment to agriculturists? I am putting this in reply to those who are opposed to price-limit of rates of energy used for agriculture irrigation.

I also propose that the price-limit not exceeding 10 nP. per unit be prescribed, of energy used in small-scale industries. For the purpose of this Act, small-scale industry requires to be defined, so

that only genuine small industry may get the benefit of the concession rate. So I propose that the following sub-clause be added to section 2 of the Indian Electricity Act, 1910—

“For the purpose of this Act, small-scale industry means an industry worked by electrical energy on a motor of not more than 10 H.P.”

We are aware that the economic condition of a middle-class family these days is miserable. In a middle-class family, one earning member has to support the whole family. Ladies do not contribute to the earnings but only do the house-work. If small industries are introduced, not only they will increase our national wealth, but they will help the deficit budget of the middle-class family in a number of ways.

Small industries have to face organised big industries. A big industry by using more energy gets a bigger advantage. How a small industry will withstand the competition of a big industry if no ceiling is prescribed on the price rate of energy used in small industry?

It is proposed to introduce power-looms to replace hand-looms. Unless power-looms are introduced our home-weaving industry will not survive in the face of acute competition of the Textile Industry. It is absolutely necessary to supply energy to power-looms and small industries at a cheaper rate.

Argument may be put up against my proposal that if the price limit is less than the cost price of energy, who is to bear the loss? My submission is that the balance-sheets of electricity concerns should not be taken at their face value. To earn 2% over the bank interest rate, so many unnecessary expenses are generally shown in their accounts.

However, if any loss occurs by giving energy at cheap rates for agriculture and small industries, the Government may be pleased to subsidise the loss. My opinion is that there will be no loss to be subsidised by the Government.

If the Government is not prepared to subsidise loss, there is another way.

The electrical concerns are guaranteed net profit of 2% over the current bank rate of interest. Whatever be the loss in giving energy to agriculture and small industries may be distributed to other consumers. They are to be benefited by more agricultural production as well as by small industries which they may also introduce

in their houses and add something to their budget. My opinion is that the addition thereby to price of energy used by others may not be more than a fraction of one naya paisa per unit.

Have we not taxed mill textile users to encourage Khadi? We have laid a special tax on mill textiles and the amount derived thereby we use in subsidising Khadi, so the users of mill textile bear the burden of subsidies to Khadi. Hence my proposal to distribute the loss, if any, due to the supply of energy at concession rate for agriculture and small industries to other consumers of energy is not a new one.

I earnestly hope that the hon. House will give their sympathetic consideration to the points I have raised.

NEW DELHI;
The 8th February, 1959.

PURUSHOTTAMDAS R. PATEL.

V

I regret I cannot agree with the majority opinion in the Select Committee. No doubt the Committee has made some welcome changes in the Bill as introduced in Parliament and has tried to move a wee-bit further towards removal of the very many difficulties a consumer, or prospective consumer, is confronted with today, but I feel that the occasion should have been availed of to evolve a more comprehensive, codified and compact piece of legislation covering all the aspects of power distribution and supply and enlarging in substantial measure "the scope of facilities available to consumers of electricity".

The Government have agreed to alter the provision in the original draft requiring that to make a requisition for a new connection in a particular locality, there must be at least two signatories, and has acceded to the proposal that a single consumer may make such a requisition. That is good so far as it goes. But the requirement that this initial consumer or consumers will have to assure to the licensee an annual revenue of 15 per cent of the cost of the service line cannot but act as a serious deterrent on the spread of electric power as envisaged. This provision needs to be altered.

The Committee has certainly done well in suggesting that the power of the State Government to give direction in respect of the supply of energy to consumers be restricted only to such establishments which are being used or intended to be used for maintaining

supplies and services essential to the community. This inhibits the arbitrariness that can emerge from this provision as originally contemplated.

There has been a good deal of discussion in regard to the purchasing price that ought to be paid to a licensee when an undertaking belonging to him is sold under sub-section (2) of section 5, and the Committee has opined that this price "shall be the market value of the undertaking at the time of purchase". Much has been tried to be made out of the Minister's observation that this market value formula can cut both ways. But as a matter of fact having regard to the climate for the expansion of electricity if this formula is accepted the amount which licensees would get as compensation would almost invariably be many more times the investment they can have put into the establishment, and so ultimately would cut only one way—in favour of the licensee and against the consumer. It is desirable that the purchasing price be calculated at the depreciated book cost of the establishment.

It is surprising that the Committee did not agree to the suggestion that the Central Electricity Board should include nominees of Parliament as well who ought to act on the Board as representatives of consumers. I wish it had.

NEW DELHI;
The 9th February, 1959.

PREMJI R. ASSAR

Bill No. 108 B of 1958.

THE INDIAN ELECTRICITY (AMENDMENT) BILL, 1958

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested
by the Committee; asterisks indicate omissions)

A

BILL

further to amend the Indian Electricity Act, 1910.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—1. This Act may be called the Indian Electricity (Amendment) Short title, Act, 1959.

9 of 1910. 5 2. Throughout the Indian Electricity Act, 1910 (hereinafter referred to as the principal Act), unless otherwise expressly provided,—

(i) for the words "aerial line" wherever they occur, the words "overhead line" shall be substituted; and

10 (ii) for the words "Electric Inspector" wherever they occur, the words "Electrical Inspector" shall be substituted.

3. In section 2 of the principal Act,—

Amendment of section 2.

(i) for the words "have the meanings assigned to them in that Act", the words, brackets and figures "or in the Electricity (Supply) Act, 1948, have the meanings assigned to them in either of those Acts" shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely:—

(a) "appropriate Government" means in relation to any works or electric installations belonging to, or under

the control of, the Central Government or in relation to any mines, oil-fields, railways, aerodromes, telegraphs, broadcasting stations and any works of defence, the Central Government, and in any other case, the State Government';

5

(iii) for clause (c), the following clause shall be substituted, namely:—

‘(c) “consumer” means any person who is supplied with energy by a licensee or the Government or by any other person engaged in the business of supplying energy to the public under this Act or any other law for the time being in force, and includes any person whose premises are for the time being connected for the purpose of receiving energy with the works of a licensee, the Government or such other person, as the case may be;’;

15

(iv) for clause (f), the following clause shall be substituted, namely:—

‘(f) “electric supply-line” means a wire, conductor or other means used for conveying, transmitting or distributing energy (whether by overhead line or underground cable), together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy and includes any support, cross-arm, stay, strut or safety device erected or set up for that purpose;’;

(v) for clause (g), the following clause shall be substituted, namely:—

‘(g) “energy” means electrical energy—

(i) generated, transmitted or supplied for any purpose, or

(ii) used for any purpose except the transmission of a message;’;

(vi) in clause (i), the words “by a licensee” shall be omitted;

(vii) after clause (i), the following clause shall be inserted, namely:—

35

‘(ii) “overhead line” means an electric supply-line which is placed above ground and in the open air but does not include live rails of a traction system;’

(viii) in clause (l), the words "by a licensee" shall be omitted and in sub-clause (i), for the words "licensee's premises", the words "supplier's premises" shall be substituted;

5 (ix) after clause (l), the following clause shall be inserted, namely:—

54 of 1948.] ' (ll) "State Electricity Board" in relation to any State means the State Electricity Board, if any, constituted for that State under section 5 of the Electricity (Supply) Act, 1948; ';

10 (x) for clause (n), the following clause shall be substituted, namely:—

15 ' (n) "works" includes electric supply-line and any building, plant, machinery, apparatus and any other thing of whatever description required to supply energy to the public and to carry into effect the objects of a license or sanction granted under this Act or any other law for the time being in force.'

4. In section 3 of the principal Act,—

Amendment of section 3.

20 (i) in sub-section (1), for the words "grant to any person a license", the words "grant after consulting the State Electricity Board, a license to any person" shall be substituted;

(ii) in sub-section (2),—

(a) in clause (a), in item (ii),—

(i) after the word "cantonment", the word "aerodrome," shall be inserted;

25 (ii) for the words "naval or military purposes", the words "defence purposes" and for the words "Engineer-in-Chief, Army Headquarters, India", the words "Central Government" shall respectively be substituted;

(b) in clause (d),—

30 (i) in item (i), the words "and as to the limits of price to be charged in respect of the supply of energy," shall be omitted;

(ii) in item (ii), for the words and figures "sections 5 and 7", the words and figures "sections 5 and 6" and for the words and figures "section 5 or section 7", the words and figures "section 5 or section 6" shall be substituted.

5. In section 4 of the principal Act,—

Amendment of section 4.

(i) in sub-section (1),—

40 (a) after the words "so requires", the words "and after consulting the State Electricity Board" shall be inserted;

(b) in clause (c), for the words, brackets, figure and letter "sub-section (3), clause (b)", the words, figures, letter and brackets "section 4A, sub-section (1)" shall be substituted;

(c) in clause (d), for the words "where the licensee is, 5 in the opinion of the State Government, unable, by reason of his insolvency", the words "where in the opinion of the State Government the financial position of the licensee is such that he is unable" shall be substituted;

(d) after clause (d), the following clause shall be insert- 10 ed, namely:—

"(e) where a licensee, in the opinion of the State Government, has made default in complying with any direction issued under section 22A.";

(ii) for sub-sections (2) and (3), the following sub-sections 15 shall be substituted, namely:—

"(2) Where in its opinion the public interest so permits, the State Government may, on the application or with the consent of the licensee, and after consulting the State Electricity Board, and the Central Government where that 20 Government is interested, and if the licensee is not a local authority, after consulting also the local authority, if any, concerned, revoke a license as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit. 25

(3) No license shall be revoked under sub-section (1) unless the State Government has given to the licensee not less than three months' notice, in writing, stating the grounds on which it is proposed to revoke the license and has considered any cause shown by the licensee within the period of 30 that notice, against the proposed revocation.

(4) Where the State Government might under sub-section (1) revoke a license it may instead of revoking the license permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms or conditions so imposed shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.". 35

Insertion of new section 4A. 6. After section 4 of the principal Act, the following section shall be inserted, namely:— 40

Amendment of licenses. "4A. (1) Where in its opinion the public interest so permits, the State Government, on the application of the licensee or otherwise and, after consulting the State Electricity Board, and

if the licensee is not a local authority, also the local authority, if any, concerned, may make such alterations and amendments in the terms and conditions of a license, including the provisions specified in section 3, sub-section (2), clause (f), as it thinks fit:

5 Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the State Government, been unreasonably withheld.

10 (2) Where the licensee has made an application under sub-section (1) proposing any alterations or amendments in his license, the following provisions shall have effect, namely:—

15 (a) the licensee shall publish a notice of the application in the prescribed manner and with the prescribed particulars;

20 (b) the State Government shall not make any alterations or amendments until all objections received by it with reference to the application within three months from the date of the first publication of the notice have been considered;

25 (c) in the case of an application proposing alterations or amendments in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the State Government shall not make any alterations or amendments except with the consent of the Central Government.

30 (3) Before making any alterations or amendments in a license otherwise than on the application of the licensee, the State Government shall publish the proposed alterations or amendments in the prescribed manner and with the prescribed particulars and consider all objections received by it with reference to the proposed alterations or amendments within three months from the date of the first publication of the notice; and where alterations or amendments have been proposed in an area of supply such as is referred to in clause (c) of sub-section (2), the State Government shall not make any alterations or amendments except with the consent of the Central Government.”.

Substitution
of new sec-
tions for sec-
tions 5, 6
and 7.

Provisions
where license
of a licensee
is revoked.

7. For sections 5, 6 and 7 of the principal Act, the following sections shall be substituted, namely:—

“5. (1) Where the State Government revokes, under section 4, sub-section (1), clause (c), the license of a licensee, the State Government shall serve a notice of revocation upon the licensee and on and with effect from the date on which such notice is served, all the powers and liabilities of the licensee under this Act shall absolutely cease and determine. 5

(2) Where the State Government revokes, under any other provision of section 4, sub-section (1), the license of a licensee, 10 the following provisions shall have effect, namely:—

(a) the State Government shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect; and on and with effect from that date, or on and with effect from the date, if earlier, on which the 15 undertaking of the licensee is sold to a purchaser in pursuance of any of the succeeding clauses or is delivered to a designated purchaser in pursuance of sub-section (4), all the powers and liabilities of the licensee under this Act shall absolutely cease and determine; 20

(b) the State Government shall enquire from the State Electricity Board, and where the licensee is not a local authority, also from any local authority constituted for the area within which the whole of the area of supply is included, whether it is willing to purchase the undertaking; 25

(c) if the State Electricity Board is willing to purchase the undertaking, the State Government shall, by notice in writing require the licensee to sell, and thereupon, the licensee shall sell the undertaking to the State Electricity Board; 30

(d) if the State Electricity Board is not willing to purchase the undertaking, the State Government shall have the option of purchasing the undertaking and if it elects to purchase, it shall by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to it; 35

(e) if the State Electricity Board is not willing to purchase the undertaking and the State Government does not itself elect to purchase it, the State Government in any case where the local authority referred to in clause (b) is willing to purchase the undertaking shall by notice in writing require the licensee to sell and thereupon the licensee shall sell the undertaking to that local authority; 40

5 (f) if no sale of the undertaking is effected under any of the foregoing clauses and if any other person is willing to purchase the undertaking, the State Government may by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to such other person.

10 (3) Where an undertaking is sold under sub-section (2), the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the provisions of sub-sections (1) and (2) of section 7A, or as the case may be, sub-section (3) of that section.

15 (4) Where the State Government issues any notice under sub-section (2) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice the undertaking to the designated purchaser pending the determination and payment of the purchase price of the undertaking.

20 (5) Where before the date fixed in the notice issued under clause (a) of sub-section (2) as the date on which the revocation of the license shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub-section, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

25 (6) Provided that if the licensee does not exercise such option within a period of six months from the aforesaid date, the State Government may forthwith cause the works of the licensee in, under, over, along, or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

30 6. (1) Where a license has been granted to any person, not being a local authority, the State Electricity Board shall,— Purchase of undertaking.

35 (a) in the case of a license granted before the commencement of the Indian Electricity (Amendment) Act, 1959, on the expiration of each such period as is specified in the license; and

40 (b) in the case of a license granted on or after the commencement of the said Act, on the expiration of such period not exceeding twenty years and of every such subsequent period, not exceeding ten years, as shall be specified in this behalf in the license;

have the option of purchasing the undertaking and such option shall be exercised by the State Electricity Board serving upon

the licensee a notice in writing of not less than one year requiring the licensee to sell the undertaking to it at the expiry of the relevant period referred to in this sub-section.

(2) Where a State Electricity Board has not been constituted, or if constituted, does not elect to purchase the undertaking, the State Government shall have the like option to be exercised in the like manner of purchasing the undertaking.

(3) Where neither the State Electricity Board nor the State Government elects to purchase the undertaking, any local authority constituted for an area within which the whole of the area of supply is included shall have the like option to be exercised in the like manner of purchasing the undertaking.

(4) If the State Electricity Board intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to the State Government at least eighteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the State Government the State Electricity Board shall be deemed to have elected not to purchase the undertaking.

20

(5) If the State Government intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to the local authority, if any, referred to in sub-section (3) at least fifteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the local authority, the State Government shall be deemed to have elected not to purchase the undertaking.

25

(6) Where a notice exercising the option of purchasing the undertaking has been served upon the licensee under this section, the licensee shall deliver the undertaking to the State Electricity Board, the State Government or the local authority, as the case may be, on the expiration of the relevant period referred to in sub-section (1) pending the determination and payment of the purchase price.

35

(7) Where an undertaking is purchased under this section, the purchaser shall pay to the licensee the purchase price determined in accordance with the provisions of sub-section (4) of section 7A.

7. Where an undertaking is sold under section 5 or section 6, then upon the completion of the sale or on the date on which the undertaking is delivered to the intending purchaser under sub-

section (4) of section 5 or under sub-section (6) of section 6, as the case may be, whichever is earlier—

5 (i) the undertaking shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation of the licensee or attaching to the undertaking:

10 Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the undertaking;

15 (ii) the rights, powers, authorities, duties and obligations of the licensee under his license shall stand transferred to the purchaser or intending purchaser and such purchaser or intending purchaser shall be deemed to be the licensee:

20 Provided that where the undertaking is sold or delivered to a State Electricity Board or the State Government, the license shall cease to have further operation.

25 7A. (1) Where an undertaking of a licensee, not being a local authority, is sold under sub-section (2) of section 5, the purchase price of the undertaking shall be the * market value of the undertaking at the time of purchase or where the undertaking

30 has been delivered before the purchase under sub-section (4) of that section, at the time of the delivery of the undertaking, reduced in either case by the value of contributions made by consumers towards the cost of construction of service lines or other capital works; and if there is any difference or dispute regarding such purchase price, the same shall be determined by arbitration.

35 (2) The * market value of an undertaking for the purpose of sub-section (1) shall be deemed to be the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him, for the purpose of the undertaking, other than a generating station declared by the license not to form part of the undertaking for the purpose of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant and the state of repair thereof and to the circumstance that they are in such position as to be ready for immediate working and to the suitability of the same for the purpose of the undertaking, but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking or of any similar consideration.

40 (3) Where an undertaking of a licensee, being a local authority, is sold under sub-section (2) of section 5, the purchase price of the undertaking shall be such as the State Government,

having regard to the market value of the undertaking at the date of delivery of the undertaking, may determine.

(4) Where an undertaking of a licensee is purchased under section 6, the purchase price shall be the value thereof as determined in accordance with the provisions of sub-sections (1) and 5 (2):

Provided that there shall be added to such value such percentage, if any, not exceeding twenty per centum of that value as may be specified in the license on account of compulsory purchase.".

10

Amendment
of section 8.

8. In section 8 of the principal Act,—

(i) for the words, figures and brackets "section 7, sub-section (1), neither a local authority nor the State Government purchases the undertaking", the words, figures and brackets "section 6, sub-section (1), the undertaking is not purchased by 15 the State Electricity Board, the State Government or the local authority" shall be substituted;

(ii) in the proviso, for the words, figure, brackets and letter, "section 5, clause (f), proviso", the words, figures and brackets "section 5, sub-section (5), proviso" shall be substituted.

20

Amendment
of section 9.

9. In section 9 of the principal Act, in sub-section (1), for the words beginning with "notice of the application to every local authority" and ending with "or intends to supply, energy", the following shall be substituted, namely:—

"notice of the application—

25

(a) to the State Electricity Board; and

(b) to every local authority both in the licensee's area of supply and also in the area in which such other person supplies, or intends to supply, energy".

Amendment
of section
10.

10. In section 10 of the principal Act, for the words and figures 30 "sections 5, 7 and 8", the words and figures "sections 5, 6 and 8" shall be substituted.

Amendment
of section
11.

11. In section 12 of the principal Act,—

(i) in sub-section (2), for the words "owner and occupier", the words "owner or occupier" shall be substituted;

35

(ii) after sub-section (5), the following sub-section shall be inserted, namely:—

(6) In this section, "occupier" of any building or land means a person in lawful occupation of that building or land.'.

40

12. In section 13 of the principal Act, in sub-section (1),—

(i) in clause (a), the brackets and words, “(not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of which the character or position is not to be altered)” shall be omitted;

Amendment of section 13.

5

(ii) after clause (e), the following explanation shall be inserted, namely:—

10

Explanation.—In clauses (a) to (e), the word “works” includes a service line in, under, over, along or across a railway even if such line is immediately attached or intended to be immediately attached to a distributing main, but does not include—

15

(i) any other service line so attached or intended to be so attached to a distributing main, or
 (ii) works which consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered;’

13. In section 20 of the principal Act,—

20

(i) in sub-section (1),—

25

(a) after the words “to which energy is or has been supplied by him”, the words “or any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him” shall be inserted;

30

(b) in clause (a), for the words “inspecting and testing”, the words “inspecting, testing, repairing or altering” shall be substituted;

(ii) in sub-section (2), for the words beginning with “the District Magistrate or” and ending with “belonging to the consumer”, the following shall be substituted, namely:—

35

“a Magistrate of the first class or in a presidency-town, by a Presidency Magistrate and after giving not less than twenty-four hours’ notice in writing to the occupier—

40

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;

(b) enter any premises to which energy is to be supplied by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy, belonging to the consumer”;

(iii) in sub-section (3), after the words “his premises”, the words “or land” shall be inserted.

Amendment of section 20.

Amendment
of section
21.

14. In section 21 of the principal Act,—

(i) in sub-section (1),—

(a) after the words "save as provided", the words, brackets and figure "in any conditions made under sub-section (2) or" shall be inserted;

(b) in the proviso, for the words "interfere with the supply by the licensee of energy to any other person", the following shall be substituted, namely:—

"Interfere with—

(a) the safety or efficient working of a licensee's electric supply-lines or other works; or

(b) the supply of energy by the licensee to any other person";

(ii) in sub-section (2),—

(a) the words, brackets and figure "Subject to the provisions of sub-section (1)" shall be omitted;

(b) after the words "after consulting", the words "the State Electricity Board and also" shall be inserted;

(iii) in sub-section (3), for the word "cancel", the words "add any new condition or cancel or * amend" shall be substituted.

Insertion of
new sections
22A and 22B.

Powers of
State Govern-
ment to give
direction to
a licensee in
regard to the
supply of
energy to
certain class
of consumers.

15. After section 22 of the principal Act, the following sections shall be inserted, namely:—

"22A. (1) The State Government may, if in its opinion it is necessary in the public interest so to do, direct any licensee to supply, in preference to any other consumer, energy required by any establishment which being in the opinion of the State Government an establishment used or intended to be used for maintaining supplies and services essential to the community, is notified by that Government in the Official Gazette in this behalf.

(2) Where any direction is issued under sub-section (1) requiring a licensee to supply energy to any establishment and any difference or dispute arises as to the price or other terms and conditions relating to the supply of energy, the licensee shall not by reason only of such difference or dispute be entitled to refuse to supply energy but such difference or dispute shall be determined by arbitration.

(3) Where any agreement by a licensee, whether made before or after the commencement of the Indian Electricity Act, 1950, for the supply of energy with any

establishment referred to in sub-section (1) expires, the licensee shall continue to supply energy to such establishment on the same terms and conditions as are specified in the agreement until he receives a notice in writing from the establishment requiring him to discontinue the supply.

5 **54 of 1948** (4) Notwithstanding anything contained in this Act, or in the Electricity (Supply) Act, 1948, or in his license or in any agreement entered into by him for the supply of energy, a licensee shall be bound to comply with any direction given to him under sub-section (1) and any action taken by him in pursuance of any such direction shall not be deemed to be a contravention of section 23.

10 **15** 22B. (1) If the State Government is of opinion that it is necessary or expedient so to do, for maintaining the supply and securing the equitable distribution of energy, it may by order provide for regulating the supply, distribution, consumption or use thereof.

15 **20** (2) Without prejudice to the generality of the powers conferred by sub-section (1) an order made thereunder may direct the licensee not to comply, except with the permission of the State Government, with—

20 **25** (i) the provisions of any contract, agreement or requisition whether made before or after the commencement of the Indian Electricity (Amendment) Act, 1959, for the supply (other than the resumption of a supply) or an increase in the supply of energy to any person, or

25 **30** (ii) any requisition for the resumption of supply of energy to a consumer after a period of six months, from the date of its discontinuance, or

(iii) any requisition for the resumption of supply of energy made within six months of its discontinuance, where the requisitioning consumer was not himself the consumer of the supply at the time of its discontinuance.”.

30 **35** 16. In section 23 of the principal Act, in sub-section (1), the words “but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license” shall be omitted.

35 **40** 17. In section 24 of the principal Act, in sub-section (2), for the words “has been referred under this Act to an Electric Inspector”, the words “which by or under this Act is required to be determined by an Electrical Inspector, has been referred to the Inspector” shall be substituted.

Power to control the distribution and consumption of energy.

of section 23.

of section 24.

Amendment
of section
25.

18. In section 25 of the principal Act,—

(i) after the word "premises", the words "or land" shall be inserted;

(ii) the words "for the purpose of supplying energy," shall be omitted. 5

Amendment
of section 26.

19. In section 26 of the principal Act,—

(i) in sub-section (5), for the words beginning with "without giving" and ending with "his intention", the following shall be substituted, namely:—

"but he may by giving not less than forty-eight hours' ¹⁰ notice in writing to the licensee require the licensee to connect or disconnect such meter and on receipt of any such requisition the licensee shall comply with it within the period of the notice";

(ii) for sub-section (6), the following sub-section shall be ¹⁵ substituted, namely:—

"(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where ²⁰ the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding ²⁵ six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, ³⁰ he shall give to the other party not less than seven days' notice of his intention so to do."

Amendment
of section 28.

20. In section 28 of the principal Act,—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:— ³⁵

"(1) No person, other than a licensee, shall engage in the business of supplying energy to the public except with the previous sanction of the State Government and in accordance with such conditions as the State Government may fix in this behalf, and any agreement to the contrary ⁴⁰ shall be void.

(1A) The State Government shall not give any sanction under sub-section (1)—

(a) except after consulting the State Electricity Board; and

5 (b) except with the consent—

(i) in any case where energy is to be supplied in any area for which a local authority is constituted, of that local authority;

10 (ii) in any case where energy is to be supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, of the Central Government;

15 (iii) in any area falling within the area of supply of a licensee, of that licensee:

20 Provided that except in a case falling under sub-clause (ii), no such consent shall be necessary if the State Government is satisfied that such consent has been unreasonably withheld.”;

(ii) in sub-section (2), after the words “supplying energy”, the words “to the public” shall be inserted.

21. In section 29 of the principal Act, in sub-section (1), after Amendment the words “supplying energy”, the words “to the public” shall be ^{of section} ~~29.~~ inserted.

22. In section 30 of the principal Act, in sub-section (1), for the Amendment words, brackets, letters and figures beginning with “No person other ^{of section} ~~30.~~ than a licensee” and ending with “as may be applicable”, the following shall be substituted, namely:—

30 “No person other than a licensee or a person to whom sanction is granted under section 28, duly authorised under the terms of his license or sanction, as the case may be, shall transmit or use energy at a rate exceeding two hundred and fifty watts and one hundred volts—

35 (a) in any street, or

(b) in any place,—

(i) in which one hundred or more persons are likely ordinarily to be assembled, or

40 (ii) which is a factory within the meaning of the Factories Act, 1948, or a mine within the meaning of the Mines Act, 1952, or

(iii) to which the State Government, by general or special order, declares the provisions of this sub-section to apply,

without giving, before the commencement of transmission or use of energy, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate, or in a presidency-town to the Commissioner of Police, containing particulars of the electrical installation and plant, if any, the nature and the purpose of supply, and complying with such of the provisions of Part IV, and of the rules ¹⁰ made thereunder, as may be applicable".

Amendment
of section
31.

23. In section 31 of the principal Act,—

(i) after the word "railway," where it occurs for the first time, the word "aerodrome," shall be inserted;

(ii) after the word "railway," where it occurs for the second ¹⁵ time, the word "airway," shall be inserted.

Amendment
of section
33

24. In section 33 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If any accident occurs in connection with the ²⁰ generation, transmission, supply or use of energy in or in connection with, any part of the electric supply-lines or other works of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person ²⁵ shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector and to such other authorities as the appropriate Government may by general or special order, direct."; ³⁰

(ii) in sub-section (2), for the words "The State Government", the words "The appropriate Government" shall be substituted;

(iii) after sub-section (2), the following sub-section shall ³⁵ be inserted, namely:—

"(3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by an Electrical Inspector or such other person as aforesaid to furnish any information shall be deemed to be legally bound to do so

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within the meaning of section 176 of the Indian Penal Code.”.

25. In section 34 of the principal Act,—

(i) for the words “State Government” wherever they occur, ^{Amendment of section 34.} the words “appropriate Government” shall be substituted;

(ii) in sub-section (2), for the words “the use of any electric supply-line”, the words “the use of, and the supply of energy to, any electric supply-line” shall be substituted.

10 26. For section 36 of the principal Act, the following section shall be substituted, namely:—

15 “36. (1) The appropriate Government may, by notification in the Official Gazette, appoint duly qualified persons to be Electrical Inspectors and every Electrical Inspector so appointed shall exercise the powers and perform the functions of an Electrical Inspector under this Act within such areas or in respect of such class of works and electric installations and subject to such restrictions as the appropriate Government may direct.

20 (2) In the absence of express provision to the contrary in this Act, or any rule made thereunder, an appeal shall lie from the decision of an Electrical Inspector to the appropriate Government or if the appropriate Government, by general or special order so directs, to an Advisory Board.”.

25 27. In section 36A of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Central Electricity Board shall consist of the following members, namely:—

(a) a Chairman and five other members to be nominated by the Central Government;

30 (b) one member to be nominated by the Governments of each of the States, not being a Union territory, to which this Act extends;

(c) one member to be nominated by the Central Government to represent each of the Union territories of Delhi and Himachal Pradesh;

(d) one member to be nominated by the Central Government to represent the Union territories of Manipur, Tripura and the Andamans and Nicobar Islands;

35 (e) one member to be nominated by each of the State Electricity Boards;

Substitution of new section for section 36.

Appointment of Electrical Inspectors.

Amendment of section 36A.

(f) one member to be nominated by the Central Government to represent the Federation of Electricity Undertakings of India;

(g) one member to be nominated by the Railway Board;

(h) one member to be nominated by the Chief Inspector of Mines appointed under section 5 of the Mines Act, 1952; and

(i) one member to be nominated by the Indian Standards Institution constituted under the Indian Standards Institution (Certification Marks) Act, 1952";;

(ii) sub-section (6) shall be omitted.

Omission of section 36B.

28. Section 36B of the principal Act shall be omitted.

Amendment of section 37.

29. In section 37 of the principal Act, in sub-section (3), for the words, brackets and letters "clause (f) or clause (h)", the words, brackets and letters "clauses (e) to (j) (both inclusive)" shall be substituted.

Amendment of section 38.

30. In section 38 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) All rules made under section 37 shall be published in the Gazette of India and shall be laid for not less than thirty days before each House of Parliament as soon as may be after such publication and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following".

Substitution of new section for section 42.

31. For section 42 of the principal Act, the following section shall be substituted, namely:—

"42. Whoever—

(a) being a licensee or a person who has obtained the sanction of the State Government under section 28 to engage in the business of supplying energy to the public, save as permitted under section 27 or section 51 or by his license or as the case may be, by the conditions of sanction, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

Penalty for illegal or defective supply or for non-compliance with order.

(b) being a licensee or a person who has obtained the sanction of the State Government as aforesaid, in contravention of the provisions of this Act or of the rules thereunder, or in breach of the conditions of license or of the sanction, as the case may be, and without reasonable excuse, the burden of

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10 36 of 1952.

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proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or

5 (c) makes default in complying with any of the provisions of an order or of any notice or requisition issued under section 5 or section 6; or

10 (d) makes default in complying with any directions issued to him under section 22A; or

15 (e) makes default in complying with any order issued to him under section 22B or sub-section (2) of section 34;

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.”.

32. In section 44 of the principal Act,—

**Amendment
of section**

15 (i) in clause (a), the words “, without giving to the licensee 44. forty-eight hours' notice in writing of his intention” shall be omitted;

(ii) in clause (b), the words “, without such licensee's consent” shall be omitted.

33. In section 47 of the principal Act, after the words “conditions 20 of his license”, the words and figures “or in the case of a person who 47. has obtained the sanction of the State Government under section 28, with any of the conditions of the sanction” shall be inserted.

34. After section 49 of the principal Act, the following section **Insertion of new section 49A.** shall be inserted, namely:—

25 '49A. (1) If the person committing an offence under this Act **Offences by companies.** is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

30 Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

35 (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall 40 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.’.

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Amendment of section 51.

35. In section 51 of the principal Act, for the words “Appliances and apparatus for the transmission of energy, confer upon any public officer or licensee”, the words “electric supply-lines, appliances and apparatus for the transmission of energy or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying energy to the public under this Act” shall be substituted.

Insertion of new section 51A.

36. After section 51 of the principal Act, the following section shall be inserted, namely:—

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“51A. Where the State Government engages in the business of supplying energy to the public, it shall have all the powers and obligations of a licensee under this Act:

Provided that nothing in sections 3 to 11 (both inclusive), section 21, sub-sections (2) and (3), sections 22 and 27 or in clauses I to V (both inclusive), clause VII and clauses IX to XII (both inclusive) of the Schedule relating to the duties and obligations of a licensee shall apply to the State Government:

Provided further that the provisions of clause VI of the Schedule shall apply to the State Government in respect of that area only where distribution mains have been laid by the State Government and the supply of energy through any of them has commenced.”.

Amendment of section 52.

37. To section 52 of the principal Act, the following proviso shall be added, namely:—

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“Provided that where the Government or a State Electricity Board is a party to a dispute, the dispute shall be referred to two arbitrators, one to be appointed by each party to the dispute.”.

Amendment of section 54.

38. In section 54 of the principal Act, for the words, figures, brackets and letter “section 5, clause (f), section 6, sub-section (2)”, the words, figures and brackets “section 5, sub-section (5)” shall be substituted.

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39. Section 56 of the principal Act shall be re-numbered as sub-section (1) thereof, and after the sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

5 (2) No court shall take cognizance of an offence under this Act, by a public officer except with the sanction—

(a) in the case of a person employed in connection with the affairs of the Union, of the Central Government; and

(b) in any other case, of the State Government.”.

40. In the Schedule to the principal Act,—

10 (a) in clause I,—

(i) in sub-clauses (a) and (b), for the words, figures, brackets and letter “section 4, sub-section (3), clause (b)”, the words, figures, letter and brackets “section 4A, sub-section (1)” shall be substituted;

15 (ii) after clause (c), the following proviso shall be added, namely:—

“Provided that if the works referred to in clause IV are not executed to the satisfaction of the State Government within the period specified in that clause, that Government may by order direct that the whole or any part of the sum so deposited or secured shall be forfeited to it.”.

20 (b) in clause II, in sub-clause (b), after the words “and information”, the brackets and words “(including technical data and statements of energy generated and sold)” shall be inserted;

25 (c) in clause III, for the words “capital employed for the purposes of the undertaking”, the words “undertaking relating to the generation, supply or distribution of energy” shall be substituted;

30 (d) in clause V,—

(i) in sub-clause (1), for the words “six or more”, the words “two or more” shall be substituted;

(ii) in sub-clause (1) (a),—

35 (a) after the words “written contract”, the words “in a form approved by the State Government” shall be inserted;

(b) for the words “produce annually, at the current rates charged by the licensee, a reasonable return to the licensee”, the words and brackets “assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the distributing mains (not including transformers and other sub-

Amendment of section 56.

Amendment of the Schedule.

station equipment) required to comply with the requisition" shall be substituted;

(iii) for sub-clause (2), the following sub-clause shall be substituted, namely:—

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(2) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the cost of the distributing mains or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Electrical Inspector and decided ¹⁰ by him.";

(e) in clause VI,—

(i) in sub-clause (1), in the first proviso, in part (a), for the words "produce, at current rates charged by the licensee, a reasonable return to the licensee", the words "assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the service line required to comply with the requisition" shall be substituted;

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(ii) in sub-clause (2), for the words "maintained by the licensee", the words "maintained by the licensee who shall also have the right to use it for the supply of energy to any other person" shall be substituted;

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(iii) in sub-clause (3), after the words "by any owner or occupier", the words "or as to the position of the meter board" shall be inserted;

(f) in clause VII, for the words "any five or more", the words "any one or more" shall be substituted;

(g) in clause VIII, after sub-clause (1), the following sub-clause shall be inserted, namely:—

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"(1A) The State Government or, as the case may be, a local authority may require the licensee—

(a) to provide the mains and other equipments for public lamps, and

(b) to use for that purpose supports, if any, previously erected or set up by him for supply of energy."

(h) in clause IX,—

(i) in sub-clause (1) (b), for the words "as will produce a reasonable return to the bulk-licensee on the outlay", the words "as will assure to the bulk-licensee an annual reve-

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“ne not exceeding fifteen per centum of the outlay” shall be substituted;

(ii) sub-clause (1) (c) shall be omitted;

5 (i) in clause X, in sub-clause (2), for the words and brackets "to the local authority (if any) concerned", the words and brackets "to the State Electricity Board and the local authority (if any) concerned and to the Electrical Inspector" shall be substituted:

(j) clauses XI and XIA shall be omitted;

10 (k) in clause XII, after the words "for the public lamps", the words "and other charges to be paid to him in connection therewith" shall be inserted;

(l) in clause XIV, after the words "shall afford", the words "to an Electrical Inspector or other person authorised by such Inspector" shall be inserted;

(m) in clause **XV**,—

(i) for the words "Electric Inspector" where they occur for the first time, the words and brackets "Electrical Inspector or a person authorised by him in this behalf (hereinafter referred to as the authorised person)" shall be substituted;

(ii) for the words "Electric Inspector" wherever they occur elsewhere in the clause, the words "Electrical Inspector or the authorised person" shall be substituted.

25 41. The following amendments being amendments consequential upon the amendments made in the principal Act by the foregoing sections shall be made in the Electricity (Supply) Act, 1948, namely:—

Consequential amendments in the Electricity (Supply) Act, 1948.

30 (i) in section 26, in the first proviso, for the words and figures "sections 22, 23 and 27", the words, figures, brackets and letter "section 22, sub-section (2) of section 22A and sections 23 and 27" shall be substituted;

(ii) section 71 shall be omitted;

35 (iii) in the Sixth Schedule, in paragraph I, after the words and figures "the Indian Electricity Act, 1910", the brackets, words, figures and letter "[except sub-section (2) of section 22A]" shall be inserted.

M. N. KAUL,
Secretary.

